

★ APR 14 2014 ★

UNITED STATES DISTRICT COURT FOR
 THE EASTERN DISTRICT OF NEW YORK

THOMAS E. PEREZ, Secretary of Labor,
 United States Department of Labor,

Plaintiff,

v.

iMobile USA LLC,
 a Limited Liability Company
 d.b.a. iMobile ; and
 KRISHNA CHAITANYA, Individually and
 as an employer; and
 LAMBA SARABJIT, Individually and
 as an employer

Defendants

LONG ISLAND OFFICE

Civil Action File

CV No. 14 2401

COMPLAINT

**FEUERSTEIN, J
 TOMLINSON, M**

Plaintiff THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor, brings this action under Sections 16 (c) and 17 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.), ("the Act"), alleging that defendants violated sections 7, 11(c), 15(a)(2) and 15(a)(5) of the Act.

I

Jurisdiction of this action is conferred upon the Court by Section 17 of the Act.

II

Defendant iMobile USA LLC is a corporation duly organized under the laws of New York having its principal office and place of business at 206 Terminal Drive Plainview, NY 11803 within the jurisdiction of this court, where defendants are engaged in the sale of mobile telephones.

III

Defendant corporation regulates the employment of all persons it employs, acts directly and indirectly in the corporation's interest in relation to the employees, and thus is an employer of

the employees within the meaning of section 3(d) of the Act.

IV

Defendant LAMBA SARABJIT, who is chief executive officer of iMobile USA LLC, in active control and management of defendant corporation, regulates the employment of persons employed by defendant corporation, acts directly and indirectly in the interest of defendant corporation in relation to the employees, and is thus an employer of the employees within the meaning of section 3(d) of the Act.

V

Defendant KRISHNA CHAITANYA, who is an owner of a subsidiary of iMobile USA LLC, in active control and management of a subsidiary defendant corporation, regulates the employment of persons employed by a subsidiary defendant corporation, acts directly and indirectly in the interest of a subsidiary defendant corporation in relation to the employees, and is thus an employer of the employees within the meaning of section 3(d) of the Act.

VI

The business activities of the defendants, as described, are related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of section 3(r) of the act.

VII

Defendants employ employees at their place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. The enterprise has had an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, the employees are employed

in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act.

VIII

Defendants in many workweeks have violated the provisions of sections 7 and 15(a)(2) of the Act by employing their employees listed on Exhibits A-1 through A-5 for workweeks longer than those prescribed in section 7 of the Act without compensating the employees for their employment in excess of the prescribed hours at rates not less than one and one-half times the regular rates at which they were employed. Therefore, defendants are liable for unpaid overtime compensation and prejudgment interest on the unpaid overtime compensation under section 17 of the Act.

IX

Defendants have violated the provisions of sections 11(c) and 15(a)(5) of the Act, in that defendants failed to make, keep, and preserve adequate and accurate records of their employees listed on Exhibits A-1 through A-5 and of the wages, hours, and other conditions of employment which they maintained as prescribed by the Regulations issued and found at 29 CFR Part 516; more specifically, the records kept by the defendants failed to show adequately and accurately, among other things, the hours worked each workday and/or the total hours worked and the wages paid each workweek with respect to many of their employees listed on Exhibits A-1 through A-5.

X

Defendants since April 3, 2010 have violated the provisions of the Act as alleged above.

WHEREFORE, cause having been shown, plaintiff prays for judgment against

defendants providing the following relief:

(1) For an injunction issued pursuant to Section 17 of the Act permanently restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from violating the provisions of sections 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and


(2) For an injunction issued pursuant to Section 17 of the Act restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from withholding the amount of unpaid overtime compensation and prejudgment interest on the unpaid overtime compensation found due defendants' employees listed on Exhibits A-1 through A-5; and


(3) For an order pursuant to section 16(c) of the Act finding defendants liable for overtime compensation found due defendant's employees listed on Exhibits A-1 through A-5 and an amount of liquidated damages; and,

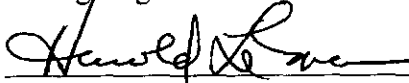
(4) For an order awarding plaintiff the costs, fees and other expenses of this action; and

(5) For an order granting such other and further relief as may be necessary and appropriate.

DATED: April 11, 2014
New York, New York


M. PATRICIA SMITH
Solicitor of Labor


JEFFREY S. ROGOFF
Acting Regional Solicitor


HAROLD LeMAR
Senior Trial Attorney

POST OFFICE ADDRESS:

Jeffrey S. Rogoff
Acting Regional Solicitor
U.S. Department of Labor
201 Varick Street, Room 983
New York, New York 10014
Tel. 646-264-3673

EXHIBIT A-1

iMobile USA LLC
d.b.a. iMobile – BEAVER VALLEY
CASE ID 1671718

<u>First Name</u>	<u>Last Name</u>
PAUL	AMOROSO
BRIAN	FRASIER
DAVE	RIMOLDI
GREGORY	BAKER
JOEL	KELLAR
JOHN	DUNBAR
JONATHAN	KOCHER
JOSEPH	MALONEY
JOSH	GILL
MARVIS	BROGDON
MICHAEL	JANICKI
NATHAN	COLETTIS
RAY	BELBACK
SARAH	GOUGHNOUR
SHANE	FABIAN
JOE	CHENOT
ALYSSA	SHEETS
AMANDA	ALFORD
COURTNEY	ALSTON
ANTOINE	BUSH

EXHIBIT A-1

EXHIBIT A-2

iMobile USA LLC
d.b.a. iMobile – WESTMORELAND
CASE ID 1688299

<u>First Name</u>	<u>Last Name</u>
RYAN	BOSSART
DOUGLAS	HLATKY
SHAWN	MILLER
BRANDON	BRENTZEL
JACOB	DEPALM
ERIC	THOMAS

EXHIBIT A-2

EXHIBIT A-3

iMobile USA LLC
d.b.a. iMobile – ROBINSON
CASE ID 1688302

<u>First Name</u>	<u>Last Name</u>
GEOFFREY	CARBONE
BRANDON	BARROSO
THEARD	THELUSMA
EARL	TIBBS

EXHIBIT A-3

EXHIBIT A-4

iMobile USA LLC
d.b.a. iMobile – JOHNSTOWN
CASE ID 1688298

<u>First Name</u>	<u>Last Name</u>
REGINALD	FARRIOR
MATTHEW	GOEHRES
BRANDON	LAKE
KAITLIN	YODER
SARA	JODAN

EXHIBIT A-4

EXHIBIT A-5

iMobile USA LLC
d.b.a. iMobile – MONROEVILLE
CASE ID 1688301

<u>First Name</u>	<u>Last Name</u>
BRYON	MCKINNEY
BRIAN	WEDLOCK
FRANK	WILLIAMS

EXHIBIT A-5